

City of Miami Beach - City Commission Meeting
Commission Chambers, 3rd Floor, City Hall
1700 Convention Center Drive
February 26, 2003

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Mayor David Dermer
Vice-Mayor Simon Cruz
Commissioner Matti Herrera Bower
Commissioner Luis R. Garcia, Jr.
Commissioner Saul Gross
Commissioner Jose Smith
Commissioner Richard L. Steinberg

City Manager Jorge M. Gonzalez
City Attorney Murray H. Dubbin
City Clerk Robert E. Parcher

ATTENTION ALL LOBBYISTS

Chapter 2, Article VII, Division 3 of the City Code of Miami Beach entitled "Lobbyists" requires the registration of all lobbyists with the City Clerk prior to engaging in any lobbying activity with the City Commission, any City Board or Committee, or any personnel as defined in the subject Code sections. Copies of the City Code sections on lobbyists laws are available in the City Clerk's office. Questions regarding the provisions of the Ordinance should be directed to the Office of the City Attorney.

PA1 Cert. of Apprec./Major Noriega, FBI National Academy Class #211 Participant. (Gross)
PA2 Proclamation/Sgt. Smolyanski, FBI's Operation White Terror/Officer of the Month. (Steinberg)
PA3 **New Item:** Cert. of Apprec./Individuals who Assisted with the 2003 MB Festival of the Arts. (Smith)

C2A **W**-BA 78-01/02, Purchase of a Trencher for Public Works Dept., \$57,100.
C2B **W**-BA 29-01/02, Supply/Install Window Tinting for MBCC & TOPA, \$76,125.
C2C BA 09-02/03, Refurbish and Paint Miami Beach Vehicles.
C2D Issue P.O., Purchase (21) 2003 Chevrolet Cavalier Vehicles, \$268,782.15.

C4A Ref: Land Use & Development Committee - Taverna Opa Restaurant. (Bower)
C4B Ref: Community Affairs Committee - Ordinance Prohibiting Campaign Contributions. (Steinberg)
C4C Ref: Land Use & Development Committee - South Pointe Quality Of Life Issues.

C6A Report: Neighborhoods Committee Meeting of January 27, 2003.
C6B Report: Finance & Citywide Projects Committee of January 29, 2003.
C6C Report: General Obligation Bond Oversight Committee Meeting of February 3, 2003.
C6D Report: Land Use & Development Committee Meeting of February 10, 2003.
C6E Report: Joint Land Use & Devlp't/Neighborhoods & Quality of Education Mtg. of Feb. 10, 2003.
C6F Report: Community Affairs Committee Meeting of February 11, 2003.

C7A **S**-Submit Grant Application/VCA and the Florida Attorney General Office.
C7B Terminate for Convenience Contract, La Gorce Island Landscaping Project.
C7C Appoint Commissioner Luis R. Garcia, Jr. as Vice-Mayor, March 1 - June 30, 2003.
C7D Approve Use of Concession Revenue, Marketing Lincoln Road.
C7E Accept Donation of (1) AED from Mr. David Ewing of Sky Service Lifeguard Air Ambulance.
C7F Execute Agmt, Acquisition/Rehab of Unit 502 at the Bayview Gardens Condo.
C7G Issue RFP, Parking Management (Web Enabled) Software System for Parking Dept.
C7H Adopt RAP, City's Official Document to Local Action Planning.

- C7I Negotiate/Execute Contract, 21st Street Community Center HVAC Renovations.
C7J Endorse the Temporary Outdoor Sculpture Project Entitled, "Beach Balls."
C7K Retroactively Approve Placement of (50) Banners, Grand Prix of Miami (2/16-3/3/03).

REGULAR AGENDA

- R5A **10:15 a.m. 2nd Rdg**, Amend Code, Barrier-Free Environment Committee. (Dermer/Gross)
R5B **10:20 a.m. 2nd Rdg**, Abate Sidewalk Café Fees for Businesses North of 63rd Street. (Garcia)
R5C **10:25 a.m. 2nd Rdg, Open/Continue**, Amend Code, Parking for Special Events.
R5D **10:30 a.m. 2nd Rdg, Open/Continue**, Amendment to RM-PRD Land Development Regs. **5/7**
R5E **10:32 a.m. 2nd Rdg**, Amend Code, False Claims Ordinance. (Smith)
R5F **5:01 p.m. 2nd Rdg**, Amend Code, Parking Structures. **5/7**
R5G **5:15 p.m. 1st Rdg**, Extend Hours for Sale of Beer/Wine for Off-Premises Consumption. (Garcia)
R5H **4:00 p.m. 1st Rdg**, Extension of Nightclub Hours.
R5I **1st Rdg**, Required Votes by the Commission to Appoint Board Members. **5/7**
R5J **1st Rdg**, Ordinance Changing Election Date for 2003 Run-Off Election.
R6A Verbal Report: Finance & Citywide Projects Committee Meeting of February 20, 2003.
R6B Verbal Report: Neighborhoods Committee Meeting of February 24, 2003.
R7A Extend Service Agmt, Governmental Representation Services in Washington, D.C.
R7B Approve City's 2004 Federal Legislative Agenda.
R7C Create an Ad Hoc Blue-Ribbon Campaign Finance Reform Review Boards. (Garcia)
R7D Approve Revisions to the Rental Rate Structure of TOPA.
R7E **10:45 a.m.** Execute Interlocal Agmt between M-D County School Brd & Local Governments.
R7F Approve Proposed Decrease In Basic Service Tier Rate By Charter Communications.
- R9A Board and Committee Appointments.
R9B Disc. Rededication of Miami Beach Coast Guard Plaque. (Dermer)
R9C Disc. Televisé Special Master Cases on Public Access Channel 20. (Garcia)
R9D Disc./Referral, Section in MB that Appears Out of Scale w/ the Rest of the City. (Garcia)
R9E **W-Disc./Presentation**, Action Plan Addressing the Traffic Enforcement Issues. (Smith)
R9F Disc./Honoring the Late Larry Levy for Years of Dedication for our City. (Garcia)
R9G Disc./Referral, Making 4th Street a One-Way Road During School Hours. (Garcia)
R9H **4:15 p.m.** Nightlife Industry Task Force - Extend Hours for Winter Party & Winter Music Conf.
R9I Disc. Resolution in Support of Continued Beach Management Funding. (Dermer)
R9J Disc. Resolution to Preserve Education & Training Programs in Our Community. (Garcia)
R9K **11:00 a.m.** Presentation by Tony Goldman on the GMCVB. (Dermer)
R9L **11:15 a.m.** Disc. Boucher Brothers Concession Agreement. (Garcia)
R9M Disc. Nightclub Safety & the Measures in Place Preventing Nightclub Fires. (Bower)

REPORTS AND INFORMATIONAL ITEMS

- A Status Report on Fire Station No. 4.
B Oral Report by Stephen Nostrand, Transportation & Parking Committee.
C Status Report on La Gorce & Pine Tree Drive Traffic Calming Project.

REDEVELOPMENT AGENCY ITEMS - 10:00 A.M.

- 3A Accept Recomm., Management/Operation of Parking for Anchor Shops & Parking Garage.
3B Repeal Resolution & Dissolve the South Pointe Advisory Board. (Gross)
3C Adopt Recomm., Purchase 5,000 Sq. Ft. Space Within "The Courts" Project (The Cobb Project).

Meeting called to order at 9:21:02 a.m.

Inspirational Message given by Father Enrique Estrada from St. Patrick's Church.

Pledge of Allegiance led by Chief De Lucca

Addendum Items: C4C, R7F, R9M, and RDA 3C.

Supplemental Materials: C7B (Resolution), C7J (Resolution), and R7D (Resolution)

9:38:10 a.m.

Add Addendum items to the Commission Agenda by 5/7 vote.

ACTION: Motion made by Commissioner Bower; seconded by Commissioner Garcia to add the Addendum items to the agenda; Voice vote: 7-0.

PA - Presentations and Awards**9:26:32 a.m.**

PA1 Certificate Of Appreciation To Be Presented To Major Carlos Noriega For Participating In The FBI National Academy Class #211.

(Requested By Commissioner Saul Gross)

ACTION: Certificate presented.

9:30:15 a.m.

Mayor Dermer acknowledged State Representative Gus Barreiro.

9:22:33 a.m.

PA2 Proclamation To Be Presented To Sergeant Peter Smolyanski For His Involvement In The FBI's Operation White Terror And "Officer Of The Month" For January 2003.

(Requested By Commissioner Richard L. Steinberg)

ACTION: Proclamation presented.

9:30:48 a.m.

PA3 Certificates Of Appreciation To Be Presented To The Miami Beach 's Fine Arts Board For The Artistic & Curatorial Direction For The 2003 Miami Beach Festival Of The Arts.

Board Members: Laura Bruney, George Neary, Leia Alvarez, Laura Apte, Marisue Beloff, Dana Eber, Radi Hofer, Chris Ingalls, Cheryl Jacobs, Jacqueline Roach, Debra Schwartz, and Grace Sherman.

North Beach Development Corporation: for the production and promotion of the 2003 Miami Beach Festival of the Arts. Executive Committee: Barry Klein, Howard Gross, Ted Berman, Jerry Libbin, Jayson Rittenberg, Margarita Cepeda, Mike Thomson, Marty Hyman, Brian Kraus, and Nancy Leibman.

North Beach Development Corporation Staff: Neil Fritz, Cristina Fernandez, Brian Huether, Samantha Soto, Deborah Ruggiero and Jody Vargas, Executive Administrator City of Miami Beach Office Of Tourism and Cultural Development for the production assistance and personal commitment for the 2003 Miami Beach Festival Of The Arts.

(Requested by Commissioner Smith)

ACTION: Certificates presented.

George Neary thanked Laura Bruney, City staff, and North Beach Development Corporation for their support. It was a great partnership.

Barry Klein thanked Jody Vargas and Maggie Fernandez, from Arts, Culture and Entertainment Division, the Police Department, Public Works Department and the staff of the North Beach Development Corporation. He stated that the festival was a success this year and this is the first time North Beach Development Corp. has produced such an event. He stated that the Fine Arts Board is incredible. He also gave special thanks to Commissioner Steinberg stating that his family gave the

cash award for the "first time exhibitor."

9:36:37 a.m.

Mayor Dermer acknowledged Miami-Dade County Commissioner Sally Heyman. Commissioner Heyman stated that some of the funding has already started to roll in some of the areas in Miami Beach and that the votes are there for Miami Beach. She is proud to represent Miami Beach.

CONSENT AGENDA

ACTION: Motion made by Commissioner Bower to approve the Consent Agenda; seconded by Vice-Mayor Cruz; Voice vote: 6-0; Absent: Commissioner Smith

C2 - Competitive Bid Reports

C2A Request For Approval To Issue A Standing Order To Vermeer Southeast Sales And Services, Inc., The Lowest And Best Bidder, Pursuant To Invitation To Bid No. 78-01/02, In The Estimated Total Amount Of \$57,100 For The Purchase Of A Trencher For The Public Works Department.
(Procurement)

ACTION: Withdrawn.

C2B Request For Approval To Award A Contract To 3M Confianza Window Tinting, Inc. In The Amount Of \$76,125, Pursuant To Bid No.29-01/02 - Supply And Installation Of Window Tinting For The Miami Beach Convention Center And The Jackie Gleason Theater Of Performing Arts (TOPA).
(Convention Center)

ACTION: Withdrawn.

C2C Request For Approval To Award Contracts To Pre-Qualified Bidders For Body Work Repair (Collision Damage) Refurbishment And Painting Of Miami Beach Vehicles, Pursuant To Bid 09-02/03.
(Fleet Management)

ACTION: Award approved. Drew Terpak to handle.

C2D Request For Approval To Issue A Purchase Order To Alan Jay Chevrolet, In The Amount Of \$268,782.15, Pursuant To Florida State Contract No. 02-10-0826, For The Purchase Of Twenty-One (21) 2003 Chevrolet Cavalier Vehicles.
(Fleet Management)

ACTION: Award approved. Gus Lopez to issue Purchase Order. Drew Terpak to handle.

C4 - Commission Committee Assignments

- C4A Referral To The Land Use And Development Committee Regarding The Proposed Establishment, Taverna Opa Restaurant, At 36-40 Ocean Drive.
(Requested By Commissioner Matti Herrera Bower)

ACTION: Item referred. Jorge Gomez to place on the agenda. Jorge Gomez to handle.

- C4B Referral To The Community Affairs Committee - Proposed Amendment To Ordinance Prohibiting Campaign Contributions By Real Estate Developers And Their Lobbyists.
(Requested By Commissioner Richard L. Steinberg)

ACTION: Item referred. Mayra Diaz Buttacavoli to place on the agenda. Legal Department to handle.

Addendum:

- C4C Referral To The Land Use And Development Committee - South Pointe Quality Of Life Issues.
(Requested By Commissioner Saul Gross)

ACTION: Item referred. Jorge Gomez to place on the agenda. Robert Middaugh to handle.

C6 - Commission Committee Reports

- C6A Report Of The Neighborhoods Committee Meeting Of January 27, 2003: **1)** Discussion Regarding The City's Enforcement Of The Noise Ordinance; **2)** Ordinance Dealing With "Rehearings/Mitigation" To Provide Limits On Settlement Agreements Regarding Special Master Fines; **3)** Discussion Concerning Espanola Way Association Request For Street Closure Of The 400 And 500 Blocks Of Espanola Way; **4)** Discussion Concerning The Nuisance Abatement Board; **5)** Discussion Regarding Licensing For Mobile Fruit/Vegetable Vendors; **6)** Ordinance Amending Enforcement And Penalty Provisions For Parking Lots And Valet Parking Operators; And **7)** Status Report On The Swale Maintenance Ad Hoc Committee.

ACTION: Written report submitted.

Item 1:

Item deferred to the next Neighborhoods Committee meeting.

Item 2:

The Committee unanimously passed a motion referring this ordinance amendment and accompanying resolution to the full Commission for action. The Commission to determine cap for non-life safety violations. **Robert Middaugh to handle.**

Item 3:

The committee made a motion to have a final community meeting and report back to the next Neighborhoods Committee meeting. The Administration will report back on the status of the fountain and its feasibility at a future Neighborhood Committee. **Robert Middaugh to handle.**

Item 4:

Commissioner Cruz made a motion to disband the Nuisance Abatement Board. The motion was seconded by Commissioner Steinberg and approved by the Committee. **Legal Department to handle.**

Item 5:

Commissioner Steinberg made a motion, which was seconded by Commissioner Gross and unanimously approved by the Committee to refer the amendment to the City Commission with a 1-hour time restriction in a 24-hour period and the ability for a property to have two licenses as long as they are not at the property at the same time. AL Childress to report back on the State's licensing procedures and health inspections. **Al Childress to handle.**

Item 6:

This item will be rescheduled for the next Neighborhoods Committee meeting and representatives from the aforementioned groups will be invited to attend.

Item 7:

The recommendation will come back to the Neighborhoods Committee first and then referred to the neighborhood associations for endorsement.

- C6B Report Of The Finance And Citywide Projects Committee Meeting Of January 29, 2003: **1)** Status Report On The Rehabilitation Project Of The Existing Building And The Addition To Fire Station No. 2.

ACTION: Written report submitted.

Item 1:

The Committee moved the item to the full Commission, with a recommendation to: reject the proposed Guaranteed Maximum Price (GMP) presented by Jasco (Jasco) Construction Company for the water tanks and pump station portion of the project; sever its relationship with Jasco under the available provisions of the Agreement; proceed with a process of competitive bidding for a replacement construction manager for the water tanks and pump station portions and the Fire Station No. 2 portion of the project, with an estimated construction start of June 2003 for the water tanks and pump station and a subsequent construction start for Fire Station No. 2.

City Clerk's Note: See Commission action February 5, 2003 - R7D

- C6C Report Of The General Obligation Bond Oversight Committee Meeting Of February 3, 2002: **1)** Change Order Report; **2)** Project Status Report; And **3)** Informational Items: a. Updated Calendar Of Scheduled Community Meetings; b. North Shore Neighborhood Community Design Workshop No. 3 Report; c. Funding Source And Expenditures Regarding REG Debarment Independent Investigation; d. Update On Fire Station No. 4 And Additional Services For McHarry; e. Update On Fire Station No. 2.

ACTION: Written report submitted.

Item 1:

The Administration informed the Committee of change orders that had been approved since the last meeting.

Item 2:

The Administration informed the Committee that the City had evaluated the needs of the West Avenue/Bay Road neighborhood and concluded there were additional funds available to augment previous stormwater bond allocations for the project. The Administration added that a Community

Design Workshop would be scheduled for some time in late April.

The Administration informed the Committee that the Bayshore Basis of Design Report had been received and would most likely be placed on the March 3, 2003 GO Bond Oversight Committee meeting agenda for the Committee's review.

The Administration informed the Committee that the Scott Rakow Youth Center Ice Rink would not be available for use until the Building Department has given the project the appropriate approvals. The Building Department had requested that the air conditioning system and the fire system run for a few days for testing prior to issuing approvals.

C6D Report Of The Land Use And Development Committee Meeting Of February 10, 2003: **1)** Discussion Regarding Guidelines For The Multi-Family Housing Rehabilitation Program; **2)** Discussion Regarding Procedures For Assuring The Renovation/Restoration Of Historic Structures; **3)** Discussion Regarding Proposed Ordinance Pertaining To Expediting The Review Process For Single Family Home Designation And Development Review; **4)** Discussion Regarding Proposed Ordinance Allowing Electronic Display Signs For Large Venues Facilities; And **5)** Discussion Regarding The Parking Requirements For Elderly Housing.

Item 1:

The Neighborhood Services Department requested that this item be deferred to a future meeting of the Land Use and Development Committee.

Item 2:

Item not reached.

Item 3:

Refer to Planning Board the proposed Ordinance as amended. Motion made by Commissioner Bower and seconded by Commission Gross. (Vote 3-0)

- 1) Remove provision that a comprehensive renovation is no longer an explicit requirement
- 2) Added oceanfront visibility exclusion from staff approvals.

Jorge Gomez to handle.

Item 4:

Item not reached.

Item 5:

Refer proposed ordinance to the Planning Board amending the parking requirement for affordable elderly housing with 30-year commitment to provide that type of housing. Motion made by Commissioner Bower and seconded by Commissioner Gross. (Vote 3-0). **Jorge Gomez to handle.**

- C6E Report Of The Joint Meeting Of The Land Use And Development Committee, Neighborhoods Committee And Quality Of Education Committee Of February 10, 2003: **1)** Interlocal Agreement Regarding Coordination Of Land Use And School Facilities Planning.

ACTION: Written report submitted.

It was recommended that the City Commission adopt the Interlocal Agreement. Motion made by Commissioner Steinberg; seconded by Commissioner Smith; (Vote 6-0). **See Item R7E.**

- C6F Report Of The Community Affairs Committee Meeting Of February 11, 2003: **1)** Discussion Regarding Art In Public Places Funds; **2)** Discussion Regarding An Ordinance Prohibiting Commissioners From Appearing Before Advisory Boards On Matters That May Foreseeably Come Before The Commission; **3)** Discussion Regarding Panhandling Ordinance; **4)** Discussion Regarding The Continuation Of The Miami Gay And Lesbian Film Festival On South Beach; And **5)** Discussion Regarding Code Of Ethics From The American League Of Lobbyists.

ACTION: Written report submitted.

Item 1.

Administration directed to finalize the AIPP Master Plan and in addition to address concerns regarding additional funding for an expanded area and equitable distribution of art throughout the City. The Committee asked that the Administration bring the item back to the Community Affairs Committee at a future meeting for further discussion and consideration. **Donna Shaw to handle.**

Item 2.

Commissioner Steinberg withdrew his original request to have this item on the Community Affairs agenda.

Item 3.

Commissioner Steinberg made a motion, seconded by Commissioner Bower, with Commissioners Garcia and Gross in favor, and Commissioner Smith opposed, to direct the Police Department and the City Attorney's Office to continue working on collecting quantifiable data to support the need for the Ordinance and to bring this information back to the Commission for further discussion and consideration. **Chief De Lucca to handle.**

Item 4:

Motion made by Commissioner Bower, seconded by Commissioner Gross, with Commissioners Garcia and Smith in favor, that reduced rated (equivalent to the Colony Theater rated) be offered at the Jackie Gleason Theater of the Performing Arts to any group who has been using the Colony Theater and are now displaced because of the construction of the Colony, as well as any group who may not have a track record but who meet the Visitors and Convention Authority's criteria for any approved event and that all requests must be presented to the Convention Center Advisory Board. This rate reduction at the Jackie Gleason would be in effect only while the Colony Theater is under construction. **See Commission Agenda item R7D.**

Item 5:

Commissioner Smith will work with the City Attorney's Office to continue researching this issue and bring back to the full Commission for further discussion. **Legal Department to handle.**

C7 - Resolutions**9:39:41 a.m.**

C7A A Resolution Authorizing The City Manager Or His Designee To Submit An Application For Grant Funds To The Miami Beach Visitor And Convention Authority (VCA), FY 2002-03 Tourism Advancement Program, In An Amount Not To Exceed \$20,000 For Funding Of The City's 4th Of July Event On 72nd Street And The Ocean; And To Retroactively Submit A Grant Application In The Amount Of \$35,400, To The Florida Attorney General Office, For Grant Funds Provided Through The Victims Of Crime Act (VOCA), The Funds Will Be Used To Fund The Police Department's Domestic Violence Unit, While Leveraging \$8,850 Of Departmental Funding; Further Appropriating Funds If Approved And Accepted By The City; And Authorizing The Execution Of All Necessary Documents Related To This Application.

(Grants Management)

ACTION: Item separated for discussion by Jorge Gonzalez, City Manager. Resolution No. 2003-25126 adopted as amended by removing the grant request to the VCA. Motion made by Commissioner Bower; seconded by Commissioner Gross; Voice vote: 6-0; Absent: Commissioner Smith. If awarded and accepted by the City, Patricia Walker to appropriate the funds. Mayra Diaz Buttacavoli to handle.

Jorge Gonzalez, City Manager, stated that there are two grants. One grant is from the VCA for the July 4th Celebration. In conversations with the Greater Miami Convention and Visitors Bureau and similar to last year, they have agreed to fund the \$25,000 for the fireworks. At this time there is no need to submit a grant to the VCA.

Commissioner Gross stated that philosophically he doesn't believe the City should be going to the VCA asking for money. He envisions the VCA as an organization that encourages new events, either with local or out-of-town promoters.

Jorge Gonzalez, City Manager, stated that generally speaking he agreed although there are occasions when the City and the VCA partner on activities such as the Thanksgiving Day Parade. He stated that he doesn't believe there needs to be an absolute policy and it should remain flexible. The Administration will avoid going to the VCA unless there is a partnership event.

Commissioner Bower stated that she has the same issue with Community Development Block Grants (CDBG).

Jorge Gonzalez, City Manager, stated that CDBG is very different.

Supplemental Material – Resolution:

C7B A Resolution Authorizing The City Manager Or His Designee To Terminate For Convenience Contract No. 03-01/02, In The Amount Of \$94,725, With Tip Top Enterprises, Inc., Pursuant To Section 1.36 Of Said Contract, For The Supply, Delivery, And Installation Of Royal Palms And Canary Palms For The La Gorce Island Landscaping Project Pursuant To Bid No. 03-01/02.

(Capital Improvement Projects)

ACTION: Resolution No. 2003-25127 adopted. Tim Hemstreet to notify Tip Top Enterprises, Inc. and handle.

- C7C A Resolution Appointing Commissioner Luis R. Garcia, Jr. As Vice-Mayor For A Term Commencing On March 1, 2003 And Terminating On June 30, 2003, Or On Such Date When A New Vice-Mayor Is Thereafter Elected.

(City Clerk's Office)

ACTION: Resolution No. 2003-25128 adopted. Robert Parcher to handle.

- C7D A Resolution Approving The Use Of City Concession Revenue Generated From Lincoln Road Special Events For The Sole Purpose Of Marketing Lincoln Road; Further Appropriating \$37,874.75 Of Available Concession Revenues To Be Reimbursed To Lincoln Road Marketing, Inc. For The Marketing Of Lincoln Road.

(Economic Development)

ACTION: Resolution No. 2003-25129 adopted. Kevin Crowder to handle.

- C7E A Resolution Accepting A Donation Of One (1) Automatic External Defibrillator (AED) From Mr. David Ewing Of Sky Service Lifeguard Air Ambulance, On Behalf Of The City.

(Fire Department)

ACTION: Resolution No. 2003-25130 adopted. Chief Jordan and Chief De Lucca to handle.

- C7F A Resolution Authorizing The Mayor And City Clerk To Execute A Subordination Agreement In Favor Of Citibank, F.S.B. For That Certain Home Program Agreement, Dated May 12, 1994, Between The City And The Miami Beach Community Development Corporation (MBCDC) For The Acquisition And Rehabilitation Of Unit 502 At The Bayview Gardens Condominium, Located At 1673 Bay Road, Miami Beach.

(Neighborhood Services)

ACTION: Resolution No. 2003-25131 adopted. Vivian Guzman to handle.

- C7G A Resolution Authorizing The Issuance Of A Request For Proposals (RFP) For A Parking Management (Web Enabled) Software System For The Parking Department.

(Parking Department)

ACTION: Resolution No. 2003-25132 adopted. Gus Lopez to issue RFP. Saul Frances to handle.

- C7H A Resolution Adopting The Parks And Recreation Department's Recovery Action Plan (RAP), As The City's Official Document To Local Action Planning, To Serve As A Statement Of The City's Commitment To The Revitalization Goals Of The National Park Service, Urban Park And Recreation Recovery Program; And Further Authorizing The City Manager Or His Designee To Submit The RAP To The National Park Service.

(Parks & Recreation)

ACTION: Resolution No. 2003-25133 adopted. Kevin Smith to handle.

9:42:56 a.m.

C7I A Resolution Authorizing The Administration Pursuant To City Code Section 2-367 (C) To Negotiate With The Lowest, Best, And Sole Bidder, Environmental Control, Inc., And If Successful, Authorizing The Mayor And City Clerk To Execute The Contract Documents, Pursuant To Invitation To Bid No. 46-01/02, For The 21st Street Community Center HVAC Renovations.
(Public Works)

ACTION: Item separated for discussion by Commissioner Gross. Motion made by Commissioner Gross to reject the bid and re-bid; seconded by Commissioner Bower; Voice vote: 6-0; Absent: Commissioner Smith. Fred Beckmann to handle.

Commissioner Gross stated that in general he is not in favor of awarding a contract when there is only one bidder. He asked the City Manager to explain why it wouldn't be worth re-bidding.

Fred Beckmann, Public Works Director, stated that there are several considerations: 1) Timeline: The units need to be installed before the summer; 2) The cost of equipment and the cost of labor have been reviewed by both himself and Gus Lopez, Procurement Director, and they are within industry standards; and 3) The helicopter is not needed and will be negotiated out.

Commissioner Gross stated that what troubles him is this is a two story building. Why did the bidder recommend the use of a helicopter rather than a crane? He stated that he is not comfortable with this bid.

Fred Beckmann, Public Works Director, stated that initially this project was under a time constraint because it was going to be done over the Thanksgiving holidays. There is no longer a time constraint and a price can be negotiated to the proper level.

Commissioner Gross stated that there were two companies who picked up the bid packages and stated that they didn't bid because the timeframe was too tight. If there is no longer a time constraint, then those bidders should be allowed to bid.

Supplemental Material – Resolution:

C7J A Resolution Approving The City Of Miami Beach As Intermediary For The Public Art Temporary Outdoor Sculpture Project, Endorsed By Miami Beach Art In Public Places Committee, Titled "Beach Balls," At No Cost Or Profit To The City; To Accept Sponsorship Donations Of Up To \$100,000, And Authorizing The City Manager To Execute A Letter Of Agreement With A Local Public Relations Firm For Project Administration Fees Not To Exceed \$10,000, And Project Expenditures Not To Exceed \$90,000.

(Tourism & Cultural Development)

ACTION: Resolution No. 2003-25134 adopted. Donna Shaw to handle.

C7K A Resolution Retroactively Approving And Authorizing The Placement Of Fifty (50) Banners For The Grand Prix Of Miami, To Be Held February 28, 2003 To March 2, 2003, In The City Of Homestead, As Requested By The Applicant At The Following Locations: Washington Avenue, Between Lincoln Road And 5th Street; 17th Street, Between Collins Avenue And Alton Road; Macarthur Causeway, Between The Coast Guard Station And Alton Road; 5th Street, Between Collins Avenue And Alton Road; Collins Avenue, Between 5th Street And 18th Street; And Alton Road, Between 5th Street And 17th Street; Said Banners To Be Affixed To Light Poles In The Public Right-Of-Way, Measuring 3 Feet X 7 Feet And Having Copy And Design As Shown On The Attached Drawings; To Be Installed And Removed In Accordance With All Other Applicable City Requirements; The Administration Further Recommends That These Banners Be Installed No Earlier Than February 16, 2003, And Removed By March 3, 2003.

(Tourism & Cultural Development)

ACTION: Resolution No. 2003-25135 adopted. Donna Shaw to handle.

End of Consent Agenda

9:50:15 a.m.

New Item: Oral report given by the State Lobbyists.

Kevin Crowder introduced the City's State Lobbyists Bob Levy and State Representative Gustavo Barreiro and stated that they are here to give the Commission a brief overview of the State Legislative Session that starts next week.

Bob Levy who provides Florida Legislative lobbying and consulting services for the City of Miami Beach stated that he believes that the entire session will center on the budget and the fiscal conditions of the State. A major issue is trust funds and whether they should remain in place or the dollars allocated to general revenue. He gave an example of the Doc Stamps Trust Fund.

Another issue of major concern to the City is the Burt J. Harris Act and the proposal to do away with sovereign immunities from municipalities and worst, to make it retroactive. He stated that Murray Dubbin, City Attorney, has been very involved in the Harris Act.

Murray Dubbin, City Attorney, stated that the total spending in claims if they were all approved as requested would be in excess of \$25 million dollars, plus interest, costs, appraiser's fees, and attorney's fees. This is a major impact to this City and perhaps to 105 other Cities in the State of Florida.

Mayor Dermer stated that there is a pending bill in Senate Committee to do away with sovereign immunity and the \$100,000 cap on Burt J. Harris claims. Miami Beach has the majority of the Burt J. Harris claims. Miami Beach also has successfully defended in court the Mirabella case that the cap does apply. The concern that Miami Beach has and every other city in the state should share is that the ability of a municipality to control its zoning may be eliminated. Cities would be able to up-zone but not downzone. There is also a movement to make it retroactive for eight years. This is a serious problem.

Mayor Dermer introduced and welcomed State Representative Dorothy Bendross Mindigal.

Commissioner Steinberg stated that he has addressed this issue with the Miami-Dade County League of Cities. He stated that there is an injustice in the process. The State via growth management legislation asked the Cities to limit growth. Now the State is considering punishing those municipalities who have enacted grow management legislation.

Commissioner Bower asked if other municipalities have lobbyists and are their lobbyists addressing this issue.

Bob Levy stated that there is a group call "FAIR", Florida Association for Inter-Governmental Relations that

meets on a weekly basis during the legislative session. This item is on the agenda. Having the Dade League of Cities pass the resolution will help engage the Florida League of Cities.

Mayor Dermer introduced State Representative Dorothy Bendross Mindigal. She gave a brief background of her accomplishments and stated she is happy to serve the City of Miami Beach.

Commissioner Bower asked about the beach sand issue and stated that all the coastal communities should be working to together on this issue.

Bob Levy stated that there is a statewide beach and preservation association composed of beach Cities. He stated that Representative Gelber has become the lead on a large number of issues.

Representative Mindigal spoke.

Representative Gustavo A. Barreiro spoke on the Homeland Security, the budget shortfall due to the class size amendment, the universal Pre-K amendment, video lottery, article 5 funding, and lifesaver senior prescription drug bill.

Commissioner Bower stated that the state lottery money was supposed to supplement the State's school budget, however, the state has reduced its school funding. Will the same thing happen with the new lottery?

Representative Barreiro stated that the Governor has made a commitment to make sure that 35% of the budget goes towards education. Approximately \$50 billion dollars, the largest portion of the budget will be going towards education.

Vice-Mayor Cruz asked what other alternatives to raise revenue, other than the lottery, are being pursued.

Representative Barreiro stated that promoting tourism can be improved. There are proposals on increasing the sales tax or create a state sales tax, but these are not popular ideas. State lobbyists are trying to put everything on the table to see how they can come out without cutting vital services. The State of Florida is one of the best states in the country with a \$2 billion to \$5 billion deficit.

Commissioner Smith expressed his concern about homeowner's insurance, property and automobile insurance and how that affects the rates and other things particularly with respect to terrorism, and how that is going to impact the resident, business owners and property owners of the City. He requested to be kept up-to-date on any reform bills introduced, particularly in the windstorm area. It needs to be made clear that the City should not be discriminated against because Miami Beach is a waterfront community. Hurricanes affect every community, including inland communities.

Mayor Dermer stated that Miami-Dade County Commissioner Sally Heyman did a wonderful job for the City of Miami Beach in trying to hold down the insurance increases by getting a cap put on the increases.

Bob Levy stated that he believes that not having an elected official as the Insurance Commissioner should have a positive impact.

Commissioner Smith stated that homeowners, automobile and windstorm insurance are the issues which need to be addressed.

Representative Barreiro recognized Commissioner Garcia, then Fire Chief, for the concept of new fire safety standards in the public schools, which later became law with the help of Senator Silvers.

Bob Levy added that there is a Senate and a House bill that returns to local government all the fire sprinkler regulations.

REGULAR AGENDA

R5 - Ordinances

10:22:18 a.m.

R5A An Ordinance Amending Miami Beach City Code Article III, Division 2 Entitled "Barrier-Free Environment Committee," Section 2-31(d) Thereof By Deleting The Six Non-Voting Ex Officio Members, Establishing A Board Quorum Of Three Members And Requiring At Least Three Votes For Board Action; Providing For Repealer, Severability, Codification, And An Effective Date.

10:15 A.M. Second Reading, Public Hearing.

(Requested By Mayor David Dermer & Commissioner Saul Gross)
(First Reading On February 5, 2003)

ACTION: Public Hearing held. **Ordinance No. 2003-3396 adopted.** Motion made by Commissioner Bower; seconded by Commissioner Steinberg; Ballot vote: 7-0. Robert Parcher to handle and to transmit to Municipal Code Corporation.

Mr. Lee Weiss spoke.

Handout or Reference Materials:

1. Notice of Ad in Miami Herald

10:24:14 a.m.

R5B An Ordinance Amending Miami Beach City Code Chapter 82, Entitled "Public Property," By Amending Article IV Thereof Entitled "Uses In Public Right-Of-Way," By Amending Division V Thereof Entitled "Sidewalk Cafes," By Amending Section 82-383 Entitled "Fee; Renewal Fee; Penalties For Late Payments For Renewal Fee," By Amending Subsection (e) Thereof To Abate Sidewalk Café Fees For Businesses North Of 63rd Street; Providing For Repealer, Codification, Severability And An Effective Date. **10:20 A.M. Second Reading, Public Hearing.**

(Requested By Commissioner Luis R. Garcia, Jr.)
(First Reading On February 5, 2003)

ACTION: Public Hearing held. **Ordinance No. 2003-3397 adopted as amended.** Motion made by Commissioner Garcia to adopt the ordinance with a two (2) year review provision; seconded by Commissioner Gross; Ballot vote: 7-0. Patricia Walker to handle. Robert Parcher to transmit to Municipal Code Corporation.

Mr. Neil Fritz, Executive Director, North Beach Development Corporation, spoke.

Commissioner Garcia stated that the purpose of this ordinance is to send the message that this Commission wants to encourage businesses in North Beach.

Commissioner Smith has concerns with this ordinance because basically it favors essentially two (2) businesses. One of the businesses is closed and the other is in danger of closing. He stated that what would really help is for the Parking Department to be less aggressive in issuing parking violations. He stated that he is concerned that, as new businesses open, the landlords will increase the rent because the businesses will not have to pay the sidewalk café fee.

Commissioner Garcia stated that this is good legislation; it sends a message to try to redevelop the North Beach area. This is not new legislation, it is not going to favor anyone, and it is basically re-implementing what was in place four years ago.

Commissioner Bower stated that at Committee level she made the motion to support this measure because she believes this is good business. This was done in South Beach for a time to encourage businesses. For the record she stated that just like in North Beach, there are restaurants in South Beach that have sidewalk cafés on state roads who are not required to pay the sidewalk café fee. This is not unique to North Beach.

Commissioner Smith explained that he could support this measure only if it was considered as an "economic stimulus/economic development" on a one-year basis only, and his vote is not setting any kind of precedence for any other area.

Motion made by Commissioner Garcia to adopt the three (3) years review provision; seconded by Commissioner Gross.

Amendment:

Motion made by Commissioner Steinberg to pass the ordinance with the one-year review provision; seconded by Commissioner Smith. Discussion continued.

Commissioner Gross requested a compromise of two (2) years. The Commission agreed on a two-year review provision without a vote.

Handout or Reference Materials:

1. Notice of Ad in Miami Herald

10:52:47 a.m.

R5C An Ordinance Amending The Code Of The City Of Miami Beach, By Amending Chapter 12, "Arts, Culture, And Entertainment," Article II, "Special Events," By Inserting A New Section 12-6, Entitled "Parking For Special Events," Adopting Procedures For The Review And Approval Of The Use Of Public And Private Property Not So Permitted Under Existing Zoning To Be Used As Emergency Parking Lots For Special Events, Providing For Repealer, Codification, Severability, And An Effective Date. **10:25 A.M. Second Reading, Public Hearing.**

(Parking Department)

(First Reading On January 8, 2003)

ACTION: Public Hearing opened and continued to April 30, 2003 at 10:30 a.m. and the ordinance referred to the Finance and Citywide Projects Committee between first and second reading. Motion made by Commissioner Steinberg; seconded by Commissioner Gross; Voice vote: 7-0. Lilia Cardillo to place on the agenda. Christina Cuervo to handle. Patricia Walker to place on committee agenda.

Handout or Reference Materials:

1. Notice of Ad in Miami Herald
2. Email from Frank Del Vecchio to Caroline De Freze, dated March 2, 2003, RE: Review of Special Events Applications by Neighborhood Associations (Flamingo Park Neighborhood Committee, Randall Robinson), (Collins Park Neighborhood Association, Tony Brooks), (Lincoln West Residents Association, Greg & Hollie Alkema), Ocean Drive Improvement Association, Marlo Courtney), Ocena Drive Preservation Association, Christina LaBuzetta)

10:54:14 a.m.

R5D Amendment To RM-PRD Land Development Regulations As It Relates To The Subdivision Of Land Within The District.

An Ordinance Amending The Code Of The City Of Miami Beach, By Amending Chapter 142, "Zoning Districts And Regulations," Article II, "District Regulations," Subdivision III, "RM-PRD Multifamily, Planned Development District," Section 142-185, Clarifying The Average Unit Size For New Construction Is A Minimum Of 1,000 Sq. Ft., Allowing The Subdivision Of Land Within Such District, As Long As The Parent Parcel Remains In Compliance With The Land Development Regulations Of That Section, And Providing That All Development Within The District Is Subject To Design Review Procedures, Providing For Repealer, Severability, Codification And An Effective Date. **10:30 A.M. Second Reading, Public Hearing.**

(Planning Department)
(Continued From February 5, 2003)

ACTION: Public Hearing opened and continued to March 19, 2003 at 10:45 a.m. Motion made by Commissioner Gross; seconded by Vice-Mayor Cruz; Voice vote: 7-0. Lilia Cardillo to place on the agenda. Jorge Gomez to handle.

Handout or Reference Materials:

1. Notice of Ad in Miami Herald

10:55:24 a.m.

R5E An Ordinance Amending Chapter 70 Of The Miami Beach City Code Entitled "Miscellaneous Offenses" By Creating Article V Thereof, To Be Entitled "False Claims Ordinance," By Creating Section 70-300 To Be Entitled "Short Title; Purpose"; By Creating Section 70-301 To Be Entitled "Definitions"; By Creating Section 70-302 To Be Entitled "Certification Of Claims" ; By Creating Section 70-303 To Be Entitled "Liability For False Claims; Penalties"; By Creating Section 70-304 To Be Entitled "Intervention By Third Parties In Civil Actions For False Claims"; By Creating Section 70-305 To Be Entitled "Rights Of Parties In Civil Actions; Limitation Of Actions"; By Creating Section 70-306 Entitled "Awards To Plaintiffs Bringing Action"; By Creating Section 70-307 To Be Entitled "Expenses; Attorney's Fees And Costs"; By Creating Section 70-308 Entitled "Exemptions To Civil Actions"; By Creating Section 70-309 To Be Entitled "Protection For Participating Employees"; By Creating Section 70-310 To Be Entitled "Burden Of Proof; Presumption Of False Claims"; By Creating Section 70-311 To Be Entitled "Innocent Claimant Affirmative Defense"; By Creating Section 70-312 To Be Entitled "Construction And Severability Of Provisions"; Providing For Repealer, Severability, Codification And An Effective Date. **10:32 A.M. Second Reading, Public Hearing.**

(Requested By Commissioner Jose Smith)
(First Reading On February 5, 2003)

ACTION: Public Hearing held. **Ordinance No. 2003-3398 adopted as amended by changes read into the record by Murray Dubbin, City Attorney.** Motion made by Commissioner Smith; seconded by Commissioner Steinberg; Ballot vote: 7-0. Robert Parcher to transmit to Municipal Code Corporation. **Legal Department to handle.**

Commissioner Smith thanked the City Attorney's Office for their help in preparing this ordinance and Commissioner Steinberg for adding the whistleblower clause.

Amendments:

1. Section 70-304(2): "A ~~Citizen~~ resident of the"
2. Section 70-304(2)(d): "When a person files an action ~~is brought~~ under".

1. Notice of Ad in Miami Herald

5:03:15 p.m.

R5F Parking Structures

An Ordinance Amending Chapter 130, "Off-Street Parking" Of The Code Of The City Of Miami Beach, Florida, By Amending Section 130-68, "Commercial And Non-Commercial Parking Garages"; To Include Provisions For Allowing Non-Residential Use Of Certain Parking Garages In RM-1 Districts, And Allowing Ground-Floor Commercial Uses Within Certain Parking Garages In 3M-2 Districts; Codification; Repealer; Severability; And An Effective Date. **5:01 P.M. Second Reading, Public Hearing.**)

(Planning Department)
(First Reading On May 29, 2002)

ACTION: Public Hearing held. **Ordinance No. 2003-3399 adopted as amended.** Motion made by Commissioner Bower; seconded by Commissioner Gross; Ballot vote: 6-0; Absent Commissioner Garcia. Robert Parcher to transmit to Municipal Code Corporation.

Jorge Gomez, Planning Director, gave an overview of the ordinance.

Amendments

1. Section 130-68(2)(e): "At least ~~twenty (50%) percent~~ one third (1/3) of the"
2. Section 130-68(2)(c): strike last sentence: and create a new section "f".
3. Section 130-68(2)(f): add: "When commercial uses are permitted in the ground floor of parking structures under this subsection (2), dance halls, entertainment establishments, neighborhood impact establishments, outdoor entertainment establishments or open-air entertainment establishments shall be prohibited uses in the garage structure."

Handout or Reference Materials:

1. Notice of Ad in Miami Herald

5:35:33 p.m.

R5G Extending The Hours For The Sale Of Beer And Wine For Off-Premises Consumption
An Ordinance Amending Chapter 6 "Alcoholic Beverages," By Amending Section 6-3 "Hours Of Sale," By Extending The Hours For The Sale Of Beer And Wine For Consumption Off The Premises From 11:00 P.M. To 12 Midnight; By Amending Section 6-4 "Location And Use Restrictions," To Clarify The Restriction Of Sales Of Alcoholic Beverages In Filling Stations; Providing For Repealer, Severability, Codification And An Effective Date. **First Reading.**
(Requested By Commissioner Luis R. Garcia, Jr.)

ACTION: Ordinance approved on First Reading. Motion made by Commissioner Steinberg; seconded by Commissioner Garcia; Ballot vote: 5-2; Opposed: Commissioners Smith and Gross. Second Reading and Public Hearing scheduled for March 19, 2003. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. Jorge Gomez to handle.

Police Chief De Lucca stated that based on the data collected over a sixty-day period there was no quantifiable difference in calls-for-service, arrests or disturbances from this year as compared to last year. There was a difference from 2001 to 2002 as a whole in the number of DUI arrests made as a department. There was an increase from 540 to 691.

David Kelsey spoke.

Al Childress, Code Compliance Director, spoke.

Alfredo Gonzalez, from David's Café Market, spoke.

Abraham Abramovich, representing Shell Oil Gas Station at Alton Road and 17 Street, spoke.

Commissioner Garcia stated that the Commission can review this ordinance in six months.

Motion made by Commissioner Steinberg; seconded by Commissioner Garcia.

Amendment:

Commissioner Steinberg asked, between first and second reading, for the Legal Department to thoroughly analyze the possibility of making a conditional-use permit and one of the conditions to obtain the permit is that at no time will the establishment sell single cans of beer (any time of the day). In addition, for non-permit holders the time to stop selling alcoholic beverages would be 10 p.m., and those establishments who wish to sell beer (non-single cans) from 10 p.m. to 12 p.m. need the permit. Discussion continued.

Murray Dubbin, City Attorney, stated that the City Attorney's Office has done major research on this issue. He doesn't think the State Law has changed. The City Attorney's Office will research.

Commissioner Garcia asked if the Administration would be enforcing the 11:00 p.m. or 12 p.m.

Jorge Gonzalez, City Manager, recommended keeping the 12:00 p.m. time extension in place.

Commissioner Steinberg withdrew his amendment and will send a memorandum to the City Attorney's Office.

4:00:53 p.m.

R5H An Ordinance Amending Chapter 6, "Alcoholic Beverages," Of The Code Of The City Of Miami Beach, Florida, By Amending Section 6-3, "Hours Of Sale," To Allow Establishments Licensed As Alcoholic Beverage Establishments And Permitted To Offer Alcoholic Beverages For Sale Until 5:00 A.M. To Extend The Hours Of Operation To 7:00 A.M. During Designated Holidays And Special Events; Providing For Codification, Repealer, Severability, And An Effective Date. **First Reading** (Economic Development)

ACTION: Item referred to the Land Use and Development Committee. Motion made by Commissioner Gross; seconded by Commissioner Bower; Voice vote: 7-0. Jorge Gomez to place on the committee agenda. **Jorge Gomez and Christina Cuervo to handle.**

Commissioner Bower made a motion to approve this ordinance on first reading but stressed to the City Manager that this is not excluding enforcement of the noise ordinance and that all the requirements that the City Commission has previously approved are to be included.

Jorge Gonzalez, City Manager, stated that this ordinance includes all of the previous requirements and there are several others requirements that the Administration wishes to include which several residents have recommended such as license being current, that there are no outstanding violations or pending violations, and that they do not owe the City money. He recommended that the ordinance be approved on first reading and refer to the Neighborhoods Committee for further discussion. He also stated that this item is a request from the Commission. What has happened in the last 12 to 18 months is that the Nightlife Industry has requested an extension of operating hours for events such as New Year's Eve, Winter Music Conference, Memorial Day Weekend, Fourth of July Weekend, White Party, and the Winter Party, and the Administration has requested, for each event that the City Commission approve the extension of hours. At the December 11, 2002, Commission Meeting the Commission directed the Administration to prepare an ordinance designating the City Manager the authority to extend the hours of operation of alcohol beverage establishments during designated holiday weekends and special events. If in the future the City Commission wishes the Administration to grant the approval as indicated by approval of this ordinance, the Administration will handle.

Gary Held, First Assistant City Attorney, stated that non-conforming businesses and outdoor entertainment (extension would only be for indoor activities) should be added as an exception to the ordinance.

Seconded by Commissioner Gross on the ordinance.

Mr. Kent Harrison Robbins spoke on behalf of 301 Ocean Drive Condominium Association.

Mr. Frank Del Vecchio spoke.

Mr. David Haber representing Portofino Towers Condominium Association and the Master Association spoke.

Gary Held, First Assistant City Attorney, stated that before this goes to Committee for discussion, that the Administration and the Legal Department will work with the interested parties to narrow the issues and refine the procedure.

Commissioner Gross withdrew his second, given the magnitude of the changes to the ordinance. He stated that it should not be passed on first reading until after it comes from Committee. He recommended referring the ordinance to the Land Use and Development Committee.

Handout or Reference Materials

1. Correspondence submitted by Frank Del Vecchio, RE Agenda Item R5H: Extension of nightclub hours to 7:00 a.m. for designated holiday and special events

3:39:08 p.m.

R5I Required Votes By The Commission To Appoint Board Members
An Ordinance Amending Chapter 118 "Administration And Review Procedures," By Amending Division 2, "Planning Board," Section 118-53, "Composition;" Amending Division 3, "Design Review Board," Section 118-72, "Membership;" Amending Division 4, "Historic Preservation Board," Section. 118-104 "Appointment," In Order To Clarify Existing Language And Change The Voting Requirement For City Commission Appointment Of Board Members To A 4/7ths Vote; Providing For Repealer, Severability, Codification And An Effective Date. **First Reading.**
(Planning Department)

ACTION: Ordinance approved on First Reading. Motion made by Commissioner Gross; seconded by Commissioner Bower; Ballot vote: 7-0. Second Reading and Public Hearing scheduled for March 19, 2003. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. Jorge Gomez to handle.

3:31:07 p.m.

R5J An Ordinance Changing The Date For A City Of Miami Beach Run-Off Election From Tuesday, November 11, 2003 To Tuesday, November 18, 2003; Providing For Repealer, Severability, Codification, And An Effective Date. **First Reading.**

ACTION: Ordinance approved on First Reading. Motion made by Commissioner Steinberg; seconded by Commissioner Bower; Ballot vote: 7-0. Second Reading and Public Hearing scheduled for March 19, 2003. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. Legal Department to handle.

Gil Zriny spoke on the issue of having a paper ballot for the elections.

Amendment:

Commissioner Steinberg to approve the ordinance with the provision to change the cut-off date for campaign fund raising from 5 days to 9 days prior to the election. Discussion continued.

Commissioner Steinberg requested the Legal Department to research this issue. **Legal Department to handle.**

Commissioner Steinberg withdrew his amendment.

R6 – Commission Committee Reports

R6A Verbal Report Of The Finance And Citywide Projects Committee Meeting Of February 20, 2003: **1)** Living Wage Ordinance; **2)** Byron Carlyle Theater; **3)** Lincoln Road Marketing; And **4)** Minimum Pension Benefit Resolution.

ACTION: Not reached. Lilia Cardillo to place on the March 19 Agenda. Patricia Walker to handle.

Handout or Reference Materials

1. Report of the Finance and Citywide Projects Committee Meeting of February 20, 2003. Although the written report was submitted the item was never reached.

R6B Verbal Report Of The Neighborhoods Committee Meeting Of February 24, 2003: **1)** Discussion Regarding The City's Enforcement Of The Noise Ordinance; **2)** Status Report On The Espanola Way Association Request For Street Closure Of The 400 And 500 Blocks Of Espanola Way; **3)** Ordinance Amending Enforcement And Penalty Provisions For Parking Lots And Valet Parking Operators; **4)** Discussion Regarding Amending The Ordinance Adopting Procedures For The Review And Approval Of The Use Of Public And Private Property Not So Permitted Under Existing Zoning To Be Used As Emergency Parking Lots For Special Events; And **5)** Discussion On Noise Ordinance During The Winter Music Conference.

ACTION: Not reached. Lilia Cardillo to place on the March 19 Agenda. Vivian Guzman to handle.

R7 - Resolutions**3:42:47 p.m.**

- R7A A Resolution Extending The Professional Services Agreement For Federal Legislative Services With The Firm Of Jordan, Burt, Berenson, And Johnson LLP, In The Total Amount Of \$90,000, To Provide Governmental Representation And Consulting Services In Washington, D.C., On An Ongoing Basis, For The Period From February 19, 2003, Until February 18, 2004
(Economic Development)

ACTION: Resolution No. 2003-25136 adopted. Motion made by Vice-Mayor Cruz; seconded by Commissioner Smith; Voice vote: 7-0. Christina Cuervo to handle.

3:42:36 p.m.

- R7B A Resolution Approving The City's 2004 Federal Legislative Agenda.
(Economic Development)

ACTION: Resolution No. 2003-25137 adopted. Motion made by Commissioner Steinberg; seconded by Commissioner Bower; Voice vote: 7-0. Christina Cuervo to handle.

6:17:09 p.m.

- R7C A Resolution Creating The City Of Miami Beach Ad Hoc Blue-Ribbon Campaign Finance Reform Review Boards; Prescribing Its Duties, And Providing For The Manner And Time Of Its Appointment, And The Terms Of Office Of Its Members.
(Requested By Commissioner Luis R. Garcia, Jr.)

ACTION: Resolution No. 2003-25138 adopted. Motion made by Commissioner Garcia; seconded by Commissioner Bower; Voice vote: 6-0; Absent: Vice-Mayor Cruz. Legal Department to handle.

3:42:00 p.m.**Supplemental Material – Resolution:**

- R7D A Resolution Authorizing The Mayor And City Clerk To Approve Revisions To The Rental Rate Structure Of The Jackie Gleason Theater Of The Performing Arts To Allow For Certain Defined Pricing Discretion Negotiability For Users Of The Colony Theater During The Colony Theater Construction.

(City Manager's Office)

ACTION: Resolution No. 2003-25142 adopted as amended. Motion made by Commissioner Bower; seconded by Commissioner Steinberg; Voice vote: 7-0. **Christina Cuervo to handle.**

Amendment:

Commissioner Gross amended the resolution to reflect that it only had to go to VCA if they were not a user of The Colony Theatre.

City Clerk's Note: It was pointed out in the Afteraction meeting that the Resolution is okay.

10:55:25 a.m.

R7E A Resolution Authorizing The Mayor And City Clerk To Execute The Attached Interlocal Agreement, Including Such Modifications Thereto That Are Acceptable To The City Attorney And City Manager, Between Miami-Dade County School Board, And All Local Governments Within Miami-Dade County, As Required By The Florida Legislature, In Order To Improve Coordination Between Local Government Land Use Planning And School Board Facilities Planning, And Other Related Matters, And To Execute Such Other Documents As May Be Necessary To Carry Out The Intent Hereof.

(Planning Department)

(Deferred From February 5, 2003)

ACTION: Resolution No. 2003-25139 adopted as amended. Motion made by Commissioner Bower to adopt the resolution stating that this is subject to the Miami-Dade County School Board acceptance and execution of the Supplemental Agreement; seconded by Commissioner Smith; Voice vote: 7-0. R. Parcher to transmit the document to the School Board.

Jorge Gomez, Planning Director, gave an overview.

Gary Held, First Assistant City Attorney, recognized Ms. Vivian Villaamil, Ivan Rodriguez from the Miami-Dade County School Board, and Leslie Coller from the Committee for Quality Education in Miami Beach. The First Supplemental Agreement embodies substantially all of the information discussed. There is a question regarding the termination clause. He stated that there is a cancellation clause in the main agreement; however, it is by mutual agreement. The DCA would have to review the cancellation language.

Commissioner Steinberg stated that nothing is accomplished by having annual reviews on a five-year contract.

Gary Held, First Assistant City Attorney, stated that all of the parties are entering into this process in good faith. The Commission has to believe that if there are problems there will be problems on both sides and both sides will want to work the problems out. An annual review will at least give an opportunity in a forum to work on the problems.

Commissioner Steinberg asked what obligation is the School Board under to execute the Supplemental Agreement.

Gary Held, First Assistant City Attorney replied that the School Board has committed to executing the Supplemental Agreement. The resolution before the Commission today can reflect that the approval of the Main Agreement is subject to the School Board's execution of the Supplemental Agreement.

Amended Resolution Language:

The resolution must reflect that the Miami Beach City Commission approves the Main Agreement subject to the Miami-Dade County School Board acceptance and execution of the Supplemental Agreement.

3:47:03 p.m.**Addendum:**

R7F A Resolution Approving The Proposed Decrease In The Basic Service Tier Rate By Interlink Communications Partners, LLC D/B/A Charter Communications, Inc.
(City Clerk's Office)

ACTION: Item heard. No motion made.

Commissioner Smith stated that there are typographical errors on items 5 and 6 of the Rate Order reflecting an increase rather than a decrease.

City Clerk's Note:

1. Because no action was taken, the rate increase goes into effect automatically in 30-days.

Handouts or reference Materials

1. Corrected Rate Order showing a decrease rather than an increase.

R9 - New Business and Commission Requests

R9A Board and Committee Appointments.
(City Clerk's Office)

Direct appointments made:

Beautification Committee:

Maria Harris	Term expires	12/31/04	Appointed by Mayor Dermer
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Committee on the Homeless:

Robert Stark	Term expires	12/31/04	Appointed by Commissioner Steinberg
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Community Development Advisory Committee:

Michael Francis	Term expires	12/31/03	Appointed by Commissioner Steinberg
Todd Narson	Term expires	12/31/04	Appointed by Commissioner Gross

Community Relations Board:

Monica Harvey	Term expires	12/31/04	Appointed by Commissioner Smith
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Fine Arts Board:

Marisue Beloff	Term expires	12/31/04	Appointed by Commissioner Smith
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Florida Sister Cities Program:

Amparo Vargas	Term expires	12/31/04	(Cozumel)	Appointed by Mayor Dermer
Jerrold Goodman	Term expires	12/31/04	(At-Large)	Appointed by Mayor Dermer
Stephanie Trinidad	Term expires	12/31/04	(Fujisawa)	Appointed by Mayor Dermer
David Kelsey	Term expires	12/31/04	(At-Large)	Appointed by Mayor Dermer
Steven Hass	Term expires	12/31/04	(Ramat-Gan)	Appointed by Mayor Dermer
Guillermo Villar	Term expires	12/31/04	(Ica)	Appointed by Mayor Dermer
Nuccio Nobel	Term expires	12/31/04	(Pescara)	Appointed by Mayor Dermer
Salomon Yuken	Term expires	12/31/04	(Ica)	Appointed by Mayor Dermer

Transportation and Parking Committee:

Minette Benson	Term expires	12/31/04	Appointed by Commissioner Smith
Marlo Courtney	Term expires	12/31/04	
Representative from the Ocean Drive Association.			
Alan Fishman	Term expires	12/31/03	Appointed by Commissioner Steinberg

Commission Appointments made:**Oversight Committee for General Obligation Bond**

Nominations for South Beach representative. Scott Needleman (4 votes), Michael Francis (3 votes).

Handouts or Reference Materials

1. Voting Ballot

3:40:46 p.m.

R9B Discussion Regarding Rededication Of Miami Beach Coast Guard Plaque.
(Requested By Mayor David Dermer)
(Deferred From February 5, 2003)

ACTION: Discussion held. Motion made by Commissioner Steinberg; seconded by Vice-Mayor Cruz; Voice vote 7-0. **Kevin Smith to handle.**

3:46:08 p.m.

R9C Discussion Regarding Televising The Special Master Cases On Public Access Channel 20.
(Requested By Commissioner Luis R. Garcia, Jr.)
(Deferred From February 5, 2003)

ACTION: Discussion held. Item referred by acclamation to the Community Affairs Committee. Mayra Diaz Buttacavoli to place the two (2) referrals on the agenda. R. Parcher to handle.

Commissioner Smith asked the City Attorney if the City has jurisdiction to televise the Special Master Hearings. **Legal Department to handle.**

Commissioner Gross requested a separate referral to review the usage of Television Channel 20.

3:49:30 p.m.

R9D Discussion And Referral To The Planning And Zoning Board Regarding A Small Section In Miami Beach That Seems To Be Out Of Scale With The Rest Of The City.
(Requested By Commissioner Luis R. Garcia, Jr.)
(Deferred From February 5, 2003)

ACTION: Discussion held. Item referred. Motion made by Commissioner Bower to refer this item to the Land Use and Development Committee; seconded by Commissioner Steinberg; Voice vote: 5-1; Opposed: Commissioner Gross; Absent: Vice-Mayor Cruz. Jorge Gomez to place on the agenda and to handle.

Bea Kalstein spoke.

R9E Discussion And Presentation Of An Action Plan Addressing The Traffic Enforcement Issue.
(Requested By Commissioner Jose Smith)
(Deferred From February 5, 2003)

ACTION: Withdrawn by Commissioner Smith.

3:41:23 p.m.

R9F Discussion Regarding Honoring The Late Assistant City Attorney Larry Levy For His Years Of Dedication And Adoration For Our City.

(Requested By Commissioner Luis R. Garcia, Jr.)

ACTION: Discussion held. Item referred by acclamation to the Neighborhoods Committee for discussion. Vivian Guzman to place on the agenda.

6:15:44 p.m.

R9G Discussion And Referral Regarding The Possibility Of Making 4th Street, From Alton Road To Michigan Avenue, A One Way Road During School Hours.

(Requested By Commissioner Luis R. Garcia, Jr.)

ACTION: Discussion held. Item referred. Motion made by Bower to refer Land Use and Development Committee and to the Quality of Education in Miami Beach Committee; seconded by Commissioner Garcia; Voice vote 7-0. Jorge Gomez and Maria Ruiz to place on Committee agendas. **Fred Beckmann to handle.**

5:06:26 p.m.

R9H Nightlife Industry Task Force - Extension Of Hours For Winter Party Weekend And Winter Music Conference.

(Economic Development)

ACTION: Discussion held. See motions below.

David Kelsey spoke.

Mr. David Haber spoke.

Mr. Frank Del Vecchio spoke.

Mr. Herbert Hoffer spoke.

Mr. Joe Guerrero, The President of the Board of Directors for the Gay Lesbian Foundation of Florida spoke.

Winter Party - March 9, 2003:

Motion made by Commissioner Bower to extend the hours of operation for those clubs with existing City Occupational Licenses that have a 5:00 a.m. liquor license to extend their hours of operation to 7:00 a.m. on **Sunday, March 9, 2003**, and to be allowed to serve alcohol. Any club, which will remain open, must notify the Police Department and Code Compliance by letter, by Thursday, March 6, 2003 **and must provide off-duty police officers if the Police Department deems appropriate and with the additional criteria.** If there are any problems during the weekend, this action may be rescinded by the City Manager in addition to the following:

1. No pending violations
2. Do not owe the City money
3. No outdoor entertainment or open-air entertainment
4. Do not give permission to violate the noise ordinance

Seconded by Commissioner Gross Voice vote: 6-0; Absent: Commissioner Garcia. Al Childress, Chief De Lucca, and Patricia Walker to handle.

Winter Music Conference:

Motion made by Commissioner Bower to extend the hours of operation for those clubs with existing City Occupational Licenses that have a 5:00 a.m. liquor license to extend their hours of operation to 7:00 a.m. on **Saturday, March 22, 2003, and Sunday March 23, 2003**, and to be allowed to serve alcohol. Any club, which will remain open, must notify the Police Department and Code Compliance by letter, by Thursday, March 6, 2003 **and must provide off-duty police officers if the Police Department deems appropriate and with the additional criteria.** If there are any problems during the weekend, this action may be rescinded by the City Manager in addition to the following:

1. No pending violations
2. Do not owe the City money
3. No outdoor entertainment or open-air entertainment
4. Do not give permission to violate the noise ordinance

Seconded by Commissioner Gross Voice vote: 7-0. Al Childress, Chief De Lucca, and Patricia Walker to handle.

Bea Kalstein spoke.

3:36:48 p.m.

R9I Discussion Regarding A Resolution In Support Of Continued Beach Management Funding.
(Requested By Mayor David Dermer)

ACTION: Discussion held. Resolution No. 2003-25140 adopted. Motion made by Commissioner Steinberg; seconded by Commissioner Bower; Voice vote: 7-0. R. Parcher to transmit to Governor Jeb Bush and the Dade Delegation.

6:14:15 p.m.

R9J Discussion Regarding A Resolution In Reference To The Preservation Of Education And Training Programs In Our Community.
(Requested By Commissioner Luis R. Garcia, Jr.)

ACTION: Discussion held. Resolution No. 2003-25141 adopted. Motion made by Commissioner Gross; seconded by Commissioner Steinberg; Voice vote: 7-0. R. Parcher to transmit the resolution to Mr. Joseph Mathos, Assistant Superintendent, Office of Adult /Vocational and Alternative Education, 1450 N.E. 2nd Avenue, Room 802, Miami, FL, 33132.

10:58:04 a.m.

R9K Presentation By Tony Goldman On The Greater Miami Convention And Visitor Bureau (GMCVB).
(Requested By Mayor David Dermer)

ACTION: Presentation made by Tony Goldman.

Tony Goldman, Chairman of the Greater Miami Convention and Visitor's Bureau (Bureau), stated that he appreciates the opportunity to be able to address the City Commission in light of what took place and the interaction on a previous Commission meeting. He stated that he was disturbed and he wants to set the record straight and also to address five issues.

The first issue is trust between partners. He stated that the City and the Bureau have been long-term partners and as Chairman of the Bureau his hope and expectation is that this long-term partnership can go into the future. As partners, the Bureau runs an open book organization, and an open relationship and he hopes there is a true and sincere sense of trust among all. There may have been differences in time and styles and maybe on particular issues but there is a bond and trust that is sincere for the benefit of the entire destination. He reminded everyone that the City and the

Bureau are partners with a common goal and that is to promote the well being of the visitors industry, and are not adversaries. He hopes to make sure that the City and the Bureau are on the same path in order to promote the community well and create a quality image that brings heads to beds and money to the tilt.

The second issue is the Watson Island project. He stated that he has thirty-four years as a real estate professional with eighteen years in the hospitality profession. He stated that Watson Island is a great real estate deal. It places the Bureau at the gateway to Miami Beach and at the epicenter of the entire destination. It provides the ultimate flexibility over a long period of time with stable base expenses to be able to expand and contract.

The third issue is the presence of the Bureau on Miami Beach. He stated that presently in Miami Beach, "we" are undergoing an assessment of the Bureau by Economic Research Associates (ERA). The purpose of this assessment is to determine whether the Bureau or any other model, is the best model to represent Miami Beach locally, nationally and internationally. He stated that the review process needs to be completed. He stated that at this moment neither the Bureau nor the City is ready to commit and sign a long-term deal. He suggested allowing the process to take place and revisiting the issue in three or four months. If the ERA report advocates a long-term relationship with the Bureau and to have attached to that a long-term funding arrangement, he would be the first to advocate a move to Miami Beach. In his judgment nothing is more important than the destination as a partnership keeping the destination and the partnership together at all costs. He would strongly lobby for it.

The fourth issue is the 10th Street Auditorium on Ocean Drive. He stated that a comment was made about the Bureau having a presence at the 10th St. Auditorium. He stated that this idea was inappropriately and prematurely presented. He stated that the Bureau is a partner with the MDPL; also the Bureau is a partner with the Ocean Drive Association and the City of Miami Beach. The idea of advancing any thought on this issue must be presented respectfully and with a protocol developed process. He asked Commissioner Bower to accept his apology for inappropriately entertaining this idea without due process.

Commissioner Bower responded that from him apologies are always accepted. She stated that she had heard a different proposal that was very acceptable. It was the way it was presented that was not the correct way.

The fifth and last issue is communication. He stated that in terms of communication he strives to communicate better with his wife, his friends, his colleagues. He continues to improve his communication skills and his communication commitment to each other on all levels; board to Commission, CEO's to CEO's, and to cover all issues that may relate to the partnership. He stated that he will actively engage a synergetic and participatory relationship with the City's new Director of Tourism and Cultural Development. He is meeting with Ms. Donna Shaw to develop a partnership with her counterpart at the Bureau. This will benefit the community and everyone involved. He thanked the Mayor and the Commissioners for their courtesy and the City Manager for his counsel.

1:50:48 p.m.

R9L Discussion Regarding The Boucher Brothers Concession Agreement.
Requested By Commissioner Luis R. Garcia, Jr.)

ACTION: Discussion held.

Commissioner Garcia introduced the item and stated how glad he is that he was one of the Commissioners who chose to override the Administration's recommendation and select the Boucher Brothers.

Harry Boucher, on behalf of the Boucher Brothers thanked the City Commission for the opportunity to provide concession services.

Jorge Gonzalez, City Manager, stated that LTC 34-2003 reported to the City Commission on the dollar figures for the conclusion of the Boucher Brothers first year in operation. A notable issues is the performance on revenues. When comparing the sales net-of-sales tax for November 2001 to October 2002, which is not quite a full fiscal year, the total net sales were \$2,539,093 compared to a similar time period of \$1,728,360. This is a difference of more than \$810,733. Revenues-to-the-City, for the same period of time increased by \$212,501. This has been done during a period of time when tourism has been down. The other factor the Administration wants to give credit for is the operations of the Boucher's. The Boucher's have been true partners and their organization has been extremely responsive to all of the needs the City has raised. The City has received a number of complements regarding their quality of service, their level of service and customer satisfaction. He complemented them for their efforts and work.

Commissioner Smith stated that even though he voted against them, he is very impressed with the customer service, the dollar increases, and the Boucher's attitude about the beach. They are on the beach Saturdays, Sundays, and holidays. He stated that the Boucher Brothers are very diligent. The beach is very clean; people are happy, they are doing good business and commended them for their work.

Commissioner Bower stated that she didn't vote for them originally but they helped during Art-Deco Weekend and thanked them.

Mayor Dermer also recognized the Boucher Brothers for their community and charity work.

Commissioner Bower asked the Boucher Brothers requested a donation to paint the fence around Feinberg/Fisher School. She expects to raise \$2,300.

City Clerk's Note: LTC 34-2003 (Boucher Brothers Miami Beach LLC Initial Contract Year Revenue Summary is included in the Commission Agenda.)

4:29:29 p.m.**Addendum:**

R9M Discussion Regarding Nightclub Safety And The Measures In Place Preventing Nightclub Fires.
(Requested By Commissioner Matti Herrera Bower)

ACTION: Discussion held.

Jorge Gonzalez, City Manager, stated that Commissioner Bower requested this item for a report and discussion in light of the tragic events that have occurred in nightclubs in other parts of the country. He stated that the entertainment industry is very important to the City of Miami Beach. The City is known worldwide for the nightclubs and is also recognized favorably for what it does for the entertainment industry. He recalled that the Mayor was instrumental in creating the Nightlife Industry Task Force, in October 2001 which continues to operate and serves as an advisory board to the Administration on the entertainment industry issues. It gives advice and the Administration uses it as a sounding board and works closely on quality of life issues, code compliance issue, litter control, special events, etc. He stated that a very good partnership has developed between the industry and the Administration. The industry acknowledges the efforts of the Administration to work with them and at the same time to balance the quality of life of the community. He mentioned that another important element in working with the industry is the fire prevention efforts by the Fire Department. He stated that this dates back to Commissioner Garcia's time when he developed and implemented very strong requirements as it relates to fire prevention, fire safety and fire education and our peers around the country have looked to us as the model for cooperating and regulating the entertainment industry.

Mayor Dermer commended Chief Jordan for his outstanding efforts and the wonderful work he and his men have done.

Chief Floyd Jordan, Fire Chief, stated that an ordinance was passed in 1997 allowing for an overcrowding lock and block exit, which gave the Fire Department specific guidelines on how the City could enforce not only the NFPA 101 life safety codes but also the South Florida Fire Prevention Codes as it relates to night club inspections. Three important factors are looked at:

- 1) A partnership needs to be established with the nightclub industry, the restaurants and the hotels. The City has done that.
- 2) A strong orientation and education program.
- 3) Enforcement.

Chief Jordan explained that the City begins establishing the partnership at the very beginning with the permitting process. This process gives the City the opportunity to review the plans and it helps establish the appropriate occupant content load for the particular establishment and also the opportunity for orientation and education on the City's enforcement policies, and fire safety education. He stated that there are approximately sixty nightclubs on Miami Beach and that does not include nightclubs located in the hotels. The total occupant content load for the nightclubs is about 20,000 people, out of the sixty nightclubs six are very large ones. One has an occupant content load of 2,000 and the other five have an occupant content load of 1000. The rest of the nightclubs go down to about seventy or eighty people. The teams that are sent to inspect the nightclubs look for 1) overcrowding, 2) that the fire alarm systems are working, 3) ascertain whether or not the clothing on draperies and furnishings are fire retardant and that they meet the code on this area, and 3) they look that the exiting facilities are not blocked or locked. He also stated that there are very deep enforcement procedures in place.

Mayor Dermer recognized Dave Noel, President of the Union, and read a letter into the record.

Commissioner Smith stated that from what he has seen and read this City has one of the strongest fire prevention codes in the nation and is being enforced to the best of our abilities. He asked the Chief if he feels that the Commission, as policy makers, can assist in legislating additional restrictions that would protect the public. There were things such as the use of pyrotechnics, soundproofing foam, lack of sprinklers, etc that contributed to the fire in Rhode Island.

Chief Jordan replied that they intend to submit some proposals either to modify the existing ordinance on the issue of pyrotechnics. He believes the City has a very strong pyrotechnic review process in place.

Commissioner Smith asked if the City should look at eliminating the use of pyrotechnics or leave it at the discretion of the Fire Department.

Chief Jordan would like to take the opportunity to look into this before making any recommendation. So far, they have not had any problems with pyrotechnics.

Commissioner Smith asked if the City should look into the fire sprinklers as far as nightclubs are concerned.

Chief Jordan explained that as a result of these two incidents the NFPA will be looking at fire sprinklers issue for nightclubs on a national level. He stated that he would prefer to wait until the NFPA comes out with a regulation before the City of Miami Beach acts on this.

Jorge Gonzalez, City Manager, stated that the NFPA is the standard and the City should wait for their expertise.

Ed Del Favero, Fire Marshall, spoke.

Commissioner Garcia stated that the success of the Fire Department is due to focusing more on compliance than on punishment, with many times establishing compliance on the spot.

Chief Jordan stated that the Fire Department receives cooperation from the nightclubs and the Hotel and Restaurant Association and added that Mr. David Kelsey contacted him to schedule additional meetings to review what is being done now and how to improve it.

David Kelsey spoke

Steve Polisar spoke.

Handout or Reference Materials

1. Commission Memorandum dated February 26, 2003
2. Fax letter from Dave Noel, President Local 1510, Fire Fighters of Miami Beach, to Mayor David Dermer and Commissioners, dated February 26, 2003

Reports and Informational Items

- A Status Report On The General Obligation Bond Funded Project For The Rehabilitation Of Fire Station No. 4.(Capital Improvement Projects)

ACTION: Written report submitted and referred. Report referred by acclamation of the City Commission to the Finance and Citywide Projects Committee. Patricia Walker to place on the agenda. Tim Hemstreet to handle.

- B Transportation And Parking Committee Oral Report By Stephen Nostrand.
(City Manager's Office)

ACTION: Item deferred.

- C Status Report On La Gorce And Pine Tree Drive Traffic Calming Project.
(Capital Improvement Projects)

ACTION: Written report submitted.

End of Regular Agenda

**Miami Beach Redevelopment Agency
Commission Chambers, 3rd Floor, City Hall
1700 Convention Center Drive
February 26, 2003**

Chairman of the Board David Dermer
Member of the Board Matti Herrera Bower
Member of the Board Simon Cruz
Member of the Board Luis R. Garcia, Jr.
Member of the Board Saul Gross
Member of the Board Jose Smith
Member of the Board Richard L. Steinberg

Executive Director Jorge M. Gonzalez
Assistant Director Christina M. Cuervo
Assistant Director Mayra Diaz Buttacavoli
General Counsel Murray H. Dubbin
Secretary Robert E. Parcher

AGENDA

1. ROLL CALL

2-3 NEW BUSINESS

11:22:28 a.m.

- A. A Resolution Of The Chairman And Members Of The Miami Beach Redevelopment Agency, Accepting The Recommendation Of The Executive Director Pertaining To The Ranking Of Proposals Received Pursuant To Request For Proposals (RFP) No. 68-01/02, For The Management And Operation Of The Parking Component Of The Anchor Shops And Parking Garage; And Further Authorizing The Administration To Enter Into Negotiations With Selig Enterprises, Inc., d/b/a AAA Parking, For The Operation Of The Facility; And If Negotiations Are Not Successful, Authorizing The Executive Director To Enter Into Negotiations With The City Of Miami Beach's Parking Department.

ACTION: Resolution No. 442-2003 adopted as amended. Motion made by Commissioner Steinberg to authorize the City Manager to negotiate an agreement with AAA Parking and if not successful, to bring the item back at the next Commission meeting; seconded by Commissioner Smith; Ballot vote: 4-3; Opposed: Vice-Mayor Cruz and Commissioners Bower and Gross. Christina Cuervo to handle.

Mayor Dermer, Vice-Mayor Cruz, and Commission Gross asked about the protests and litigation regarding this RFP.

Murray Dubbin, City Attorney, gave an overview of the protest.

Jorge Gonzalez, City Manager, stated for the record that this is the Anchor Garage (an 800 space parking garage) owned by the City with revenues of approximately \$1.8 million and expenses of approximately a half million dollars per year. The Anchor Garage has been owned by the City and operated by Quik Park since December 1998, who has been the only operator of that garage since it opened. He explained that Quik Park was operating under a three-year management agreement with a one-year extension provided.

He stated that Quik Park was selected through a modified competitive process. Quik Park was on a list of pre-qualified operators qualified to operate the garage. The Manager stated for the record that Quik Park has been a good operator providing responsive service and has done a good job for the City. He stated that since their contract had no more renewal options, he made the recommendation in May 2002, to go to the Finance and Citywide Projects Committee to review the City's options. He stated that two options were presented: 1) to allow the City to take over the operation, and 2) to issue competitive bids. He explained that the City owns six (6) garages and operates five (5) of them and the only one not operated by the City is the Anchor Garage. He emphasized that the City operated garages work well returning generous profits and excellent customer satisfaction. The Administration's recommendation in May was for the City Parking Department to take over the operation. A second option was to issue competitive bids. He also stated that there was a third alternative that existed but was not contemplated which was to wave competitive bids and allow the current operator to continue operating it. He stated that the Finance and Citywide Projects Committee recommended a competitive bid process with the City participating as a bidder. He mentioned that other communities throughout the country have had municipal department participate in the bid process including Miami-Dade County. In July 2002, the Administration presented the City Commission with an RFP crafted in a manner that would allow for a managed competition process that would have the private sector competing with the public sector for the operation of the Anchor Garage. This process entailed the private sector competing, the evaluation committee developing a preferred private operator, and comparing the preferred private operator to the submission by the City. He stated that it has been indicated that this process is unique and different to what is done in other places but he assured the Commission that normally when the City goes out to bid for services, particularly when it is a first time bid and irrespective of whether the City has submitted a bid, it is the Administration's duty to compare the cost of doing the service in-house to the bid prices received and make a recommendation. The idea of comparing the private sector and the public sector in a competitive basis is not new or different. What was different was the managed process whereby the City went through a formal RFP submission by a City department. He continued explaining that in January 2003 three proposals were considered; two (2) private sectors proposals and one (1) City proposal. Two (2) additional private proposals were received but were deemed non-responsive since they failed to meet the Living Wage ordinance requirement. The evaluating committee discussed the two (2) private firms responses and determined that AAA Parking should be the firm considered to be in competition with the City's Parking Department. AAA Parking was selected for many reasons, but also because of the fact that they were contemplating guaranteed revenue or guaranteed net profits. The City's Parking Department made a presentation to the evaluation committee. The evaluation committee deemed that the City was the preferred provider by a score of 575 points to 564 points. He stated that in his review and analysis of the information it was a dead-heat. Because of the cost savings, internal controls, and a focus on customer service, it remained a dead-heat, however in the finance area, the private sector can offer guaranteed revenue or guaranteed net profit that the Parking Department cannot guarantee. He stated that if the City can secure a guaranteed revenue or guaranteed net profit, which as of now the figure is unknown, and the revenue or net profit and other terms of the contract are appropriate, it is his duty to recommend the private sector. Even when the City's department could perform adequately or even better in many respects, one thing they cannot do is to provide guaranteed revenue or guaranteed net profit. In many places you hear about conducting government as a business, the Parking Department is doing just that. The department is doing it well, turning a profit, providing good customer service, and are very responsive. The Administrative recommendation is to begin negotiation with AAA to try to determine the guaranteed revenue or guaranteed net profit. Failing to reach an agreement with AAA, the Parking Department is the number two.

Raul Aguila, First Assistant City Attorney, advised the Commission of the bid protests received.

Jorge Gonzalez, City Manager, stated that the reasons why the City should operate the garage have not changed and that the City already provides the same service to five (5) other garages and are doing it well, the Parking Department can easily handle this garage, there are reduced costs particularly as it relates to liability, management fee and insurance. The Parking Department has a more intense focus on customer service where the issue is not the bottom line but to make sure the services are provided and the internal controls. AAA offers many of the same characteristics as the Parking Department and that is why they are being recommended. They have a good management team structure, operate successful operations nationally, have experience in operation garages that service hotels, strong financial capabilities, and are willing to discuss providing guarantees or net revenue. Ron Williams, President of AAA Parking, introduced Mason Mehrjerdian, Executive Vice-President, Reginald Brown, Vice-President of Operations for the State of Florida, and Manny Grossy, City Manager for the Greater Miami Area. Mr. Williams gave a presentation about the benefits of AAA Parking.

Mason Mehrjerdian, Vice-President, AAA Parking, stated that AAA is in a position to guarantee at least \$900,000 for certain revenue and build up as revenue grows.

Jorge Gonzalez, City Manager, asked for clarifications and stated if the \$900,000 net revenue might graduate upwards depending on revenue performance.

Saul Frances, Director of the Parking Department, introduced Chuck Adams, Assistant Parking Director, who will be the project manager for this project; Miguel Beingolea, Parking Operations Manager, and five (5) parking facility supervisors. He introduced members of the contract services provided by Standard/Alcoa Parking, Armour Security, Best Maintenance, and Country Bills who provide Landscaping. He gave a PowerPoint presentation on the benefits achieved by awarding the contract to the Parking Department.

Commissioner Smith asked to what extend the City is exposed to the County by privatizing the facility particularly Ad-Valorem taxes.

Jorge Gonzalez, City Manager, stated in this case the garage is unique. One, there is a private entity managing it and secondly, there are two separate garage easements with the Loews Hotel and the Royal Palm Crowne Plaza, which is causing the City to have to pay taxes on the garage. It's the easement more than the management structure. The City currently pays about \$350,000 to pay the Miami-Dade County taxes. He also stated that the City is appealing this ruling and the assessment.

Commissioner Steinberg asked the Legal Department if the City were to enter into a contract rather than an easement, would that effect the City's position and asked the Legal Department to look into it.

Gary Held, First Assistant City Attorney, stated that the Florida Supreme Court has declared certain statutes unconstitutional with respect to tax-exempt status of public land being managed for profit. There is presently litigation relative to the 16th Street Garage.

Commissioner Gross stated that the real estate issue is significant. He asked for a legal opinion on this issue.

Murray Dubbin, City Attorney, stated that the law is in a state of flux. In Hillsboro County case, where there is a lease agreement on a golf course, it is privately owned and controlled operation and is subject to taxation.

Mr. Sylvester Lukis, Lukis and Balsera LLC, spoke on behalf of Quik Park.

Mr. Rafael Llopis, Executive Director from Quik Park, spoke.

Motion made by Commissioner Steinberg to approve the City Manager's recommendation; seconded by Commissioner Bower.

The discussion continued.

Commissioner Steinberg amended his motion to authorize the City Manager to negotiate with AAA Parking but to enter into an agreement and to bring any agreement back to the City Commission preferably at the next meeting.

Jorge Gonzalez, City Manager, stated that the above motion is exactly what the Administration is recommending.

The discussion continued.

Jorge Gonzalez, City Manager, stated that on the motion to approve the Administration's recommendation, he asked that the motion be amended to authorize the Administration to negotiate with AAA and if a successful agreement cannot be reached, to come back to the City Commission, rather than go with the number two bidder (City's Parking Department).

Commissioner Steinberg accepted the City Manager's amendment.

Commissioner Bower withdrew her second to the original motion.

Commissioner Garcia seconded the motion recommended by the City Manager and accepted by Commissioner Steinberg.

Discussion continued.

Commissioner Garcia withdrew his second.

The motion was seconded by Commissioner Smith.

Discussion continued.

Commissioner Steinberg asked AAA if they would be willing to guarantee more than the City is collecting today.

Mr. Williams, AAA, stated that he is open to any type of negotiations which will better this property.

Commission Steinberg asked would AAA be willing to guarantee moneys in excess of City's revenues in the past fiscal year?

Mr. Williams, AAA, answered, "yes, AAA would be willing to negotiate that."

Ballot vote: 4-3; Opposed: Vice-Mayor Cruz, Commissioners Bower and Gross.

Jorge Gonzalez, City Manager, stated that the process that just took place validates the faith of the Commission on the Administration. There have been allegations, innuendos, issues of ethics, bias, favoritism, unfair and despaired treatment that have been reported, alleged, written in the press and brought to the court and the Ethics Commissions. The Legal Department, Raul Aguila, First Assistant City Attorney, and the Administration have brought to the City Commission the conclusion to a process that has been fair. He stated that he

brought to the Commission the best outcome for the City and he is prepared to do whatever the City Commission directs him to do. Today's vote of the City Commission validates the process. He hopes that the efforts the Administration demonstrated in this process for a \$27,000 management fee makes the City Commission aware of the influence that takes place. He is glad the City Commission had faith in the process and brought it to a full conclusion.

Handouts or Reference Material

1. Letter from Harvey Figueroa, General Manager Imperial Parking, to Jorge Gonzalez, City Manager, dated November 27, 2002.
2. Letter from Harvey Figueroa, General Manager Imperial Parking, to Jorge Gonzalez, City Manager, dated February 24, 2003, RE: RFP No. 68-01/02 - Management and Operation of the Parking Component of the Anchor Shops and Parking Garage.
3. Letter from Jorge M. Gonzalez, City Manager, to Rafael Llopiz, Vice President, Quik Park, dated February 25, 2003, RE: Protest Letter RE Request for Proposals No 68-01/02 - Management and Operation of the Parking Component of the Anchor Shops and Parking Garage
4. Letter from Jorge M. Gonzalez, City Manager, to Harvey Figueroa, General Manager, Imperial Parking, dated February 25, 2003, RE: Request for Proposals No 68-01/02 - Management and Operation of the Parking Component of the Anchor Shops and Parking Garage
5. Letter from Rafael Llopiz to Gus Lopez, Procurement Director, dated February 25, 2003, RE: NONE.
6. Package from AAA Parking submitted by Ron Williams, President, AAA Parking a subsidiary of Selig Enterprises, Inc.
7. Color printout of PowerPoint presentation submitted by the City of Miami Beach Parking Department.

11:09:43 a.m.

- B A Resolution Of The Chairman And Members Of The Miami Beach Redevelopment Agency For The City Of Miami Beach, Florida, Repealing Resolution Nos. 33-85, 45-87, And 46-87 And Dissolving The South Pointe Advisory Board.

ACTION: Resolution No. 443-2003 adopted. Motion made by Commissioner Gross; seconded by Commissioner Steinberg; Voice vote: 7-0. R Parcher to handle.

11:10:51 a.m.**Addendum:**

C A Resolution Of The Chairman And Members Of The Miami Beach Redevelopment Agency (RDA) Adopting The Recommendation Of The Finance And Citywide Projects Committee And Authorizing The Executive Director Of The RDA To Exercise The RDA's Option To Purchase The 5,000 Square Foot Space Within "The Courts" Project (F/K/A The Cobb Project) For \$275,000, Pursuant To Paragraph 4 Of The Fourth Extension And Clarification Agreement, Dated July 26, 2000, Said \$275,000 Payable In Ten (10) Yearly Installments Of \$27,500; Contributing The Space To The City Of Miami Beach For Uses Including A Library And Such Other Public Uses As Permitted And As Mutually Agreed To By The Parties, Pursuant To Paragraph 4 Of The Fourth Extension And Clarification Agreement; And Further Authorizing The Executive Director To Execute A Letter Agreement Modification Of Paragraph 4 Of The Fourth Extension And Clarification Agreement Between The City, The RDA, And The Courts At South Beach, Limited, A Florida Limited Partnership F/K/A Cobb Partners South Beach, Ltd.

ACTION: Resolution No. 444-2003 adopted as amended including a list of pre-approved public uses for the space and a remedy if the developer isn't ready to vacate the property. Motion made by Commissioner Bower; seconded by Commissioner Smith; Voice vote: 7-0. Christina Cuervo to handle.

Christina Cuervo, Assistant City Manager, gave a history of the issue.

Commissioner Steinberg stated that at the Committee meeting where this was discussed there was a question regarding trying to give the City flexibility with the space.

Commissioner Gross stated that at the Committee meeting the Library issue was not resolved. He stated that he thought Commissioner Bower's motion was to have community input on whether to move the library or what if there were other uses for it.

Christina Cuervo, Assistant City Manager, stated that the Administration did not go through a community input process. The Administration met with the Library and retained the option to retain a portion of the space for the City. Since the option doesn't need to be exercised until the end of March, within the next two or three weeks the Administration can do community outreach. **Christina Cuervo to handle.**

Commissioner Steinberg stated that the developer needs to give the City more flexibility for that space since we are letting them use it for an additional period of time. The City may not want to be locked to the Library.

Commissioner Gross stated that the Commission should want to exercise the option. Because nothing ever happens on time, what happens if they don't finish selling the units during the extension period? The agreement is silent regarding penalties or eviction.

Christina Cuervo stated that the developer has requested an extension of one (1) year. The additional six-months are to complete the remaining build out.

Commissioner Gross added that there needs to be a remedy in the agreement in the event the developer isn't ready to vacate the property. **Christina Cuervo to handle.**

Commissioner Smith stated that if the developer needs more time the City has the option to rent the space to the developer or the right to evict them.

Commissioner Steinberg stated that there should be a list of pre-approved items that the City can negotiate later. Commissioner Steinberg requested the Administration to come up with

the list.

End of RDA Agenda

Meeting adjourned at 6:19:18 p.m.